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Notices



ENVIRONMENTAL PROTECTION AGENCY (EPA)

**[FRL-6343-4]**

# Evaluation of "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" Policy Statement, Proposed Revisions and Request for Public Comment

64 FR 26745

**DATE:** Monday, May 17, 1999

**ACTION:** Policy statement and request for public comment on proposed revisions.

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[*26745]

**SUMMARY:** The Environmental Protection Agency (EPA) announces the preliminary results of its evaluation of the effectiveness of EPA's "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" (Audit Policy) and solicits public comment on proposed revisions to the Audit Policy that are based on the evaluation. The proposed revisions include broadening the period for prompt disclosure from 10 to 21 days, clarifying the availability of Policy relief in multi-facility contexts, and providing that entities meeting all of the Policy conditions except for "systematic discovery" will not be recommended for criminal prosecution. EPA developed the Audit Policy to enhance protection of human health and the environment by encouraging entities to voluntarily discover, and disclose and correct violations of environmental requirements. EPA published the Audit Policy in the **Federal Register** at 60 FR 66705 on December 22, 1995.

**DATES:** EPA requests interested parties to comment on this notice in writing. Comments must be received by July 16, 1999.

**ADDRESSES:** Submit three copies of comments to the EPA Audit Policy Docket, 401 M Street SW, Mail Code 2201A, Room 4033, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Additional documentation relating to the development and evaluation of this Policy are contained in the EPA Audit Policy Docket. Documents from the docket may be requested by calling (202) 564-2614, requesting an index

to docket #C-94-01, and faxing document requests to (202) 501-1011. Hours of operation are 8 a.m. to 4 p.m., e.s.t., Monday through Friday, except legal holidays. Additional contact is Catherine Malinin Dunn, at (202) 564-2629.

**SUPPLEMENTARY INFORMATION:**

**I. Explanation of Notice**

*A. Executive Summary*

EPA initiated the Audit Policy Evaluation as part of EPA's commitment set forth in the Policy at 60 FR at 66712. The major preliminary findings of the Audit Policy Evaluation, and the major proposed revisions to the Policy and its implementation, are as follows:

. Discovery and correction of violations under the policy have removed pollutants from the air and water, reduced health and environmental risks and improved public information on potential environmental hazards.

. EPA has consistently applied the policy. [*26746]

. Use of the policy has made EPA aware of new environmental issues.

. Use of the policy has been widespread (as of March 1, 1999, 455 entities have disclosed violations at approximately 1850 facilities), including significant multi-facility disclosures (16 parent companies disclosed the same types of violations at over 900 facilities).

. Users of the policy report a very high satisfaction rate with 88% of the respondents stating that they would use the Policy again and 84% stating that they would recommend the Policy to clients/counterparts.

. Most disclosures involve monitoring and reporting violations in federally-run programs (i.e., not in programs that states are authorized or approved to administer and enforce).

. The policy encourages specific improvements in auditing programs and environmental management systems.

. The most frequently suggested change to the policy is expansion of 10-day disclosure period.

. The most frequently suggested change to policy implementation is shortening the time to process cases.

Based on these major findings and others, EPA proposes specific improvements to the Policy. One significant proposed revision is to broaden the prompt disclosure period from 10 to 21 days. EPA also proposes to clarify that a facility in many circumstances may satisfy the "independent discovery" condition even where inspections or investigations have commenced at, or information requests have been issued to, other facilities owned by the same parent. Another proposed change is to provide that entities that meet all of the Policy conditions except for "systematic discovery" would not be recommended for criminal prosecution.

Proposed changes to implementation of the Policy include a commitment to reduce the time to process Audit Policy cases by, for example, encouraging disclosers to use disclosure checklists, so that EPA receives all of the information it needs to determine policy applicability and resolve cases in a timely fashion. The Agency also plans particularly to encourage disclosures at multi-facilities because such disclosures effectively leverage resources of the Agency, allow regulated entities to review their operations holistically, and benefit the environment. For the same reasons, sector-based initiatives involving the Audit Policy also figure prominently in the

future of EPA's enforcement and compliance program.

*B. Audit Policy, Audit Policy Evaluation and Criteria for Effectiveness*

1. Audit Policy

On December 22, 1995, EPA published the "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations' (Audit Policy) in the **Federal Register** at 60 FR 66705. Today's Notice solicits public comment on the preliminary results of the Audit Policy Evaluation and the specific proposed revisions to the Audit Policy and its implementation.

Under the Audit Policy, where violations are found through voluntary environmental audits or efforts that reflect a regulated entity's due diligence, are promptly disclosed and expeditiously corrected and meet certain other conditions designed to protect public health and the environment, EPA will not seek gravity-based (i.e., non-economic benefit) penalties and will recommend against criminal prosecution against the regulated entity. EPA will reduce gravity-based penalties by 75% for violations that are voluntarily discovered, and are promptly disclosed and corrected in accordance with the conditions of the Policy, even if not found through a formal audit or due diligence. Finally, the Policy restates EPA's long-held policy and practice to refrain from routine requests for environmental audit reports.

The Policy includes important safeguards to deter irresponsible behavior and protect the public and environment. For example, in addition to prompt disclosure and expeditious correction, the Policy requires companies to act to prevent recurrence of the violation and to remedy any environmental harm which may have occurred. Repeated violations or those which result in actual harm or may present an imminent and substantial endangerment are not eligible for relief under this Policy, and companies will not be allowed to reap a significant economic benefit by delaying their investment in compliance. Corporations remain criminally liable for violations that demonstrate or involve a prevalent management philosophy that concealed or condoned violations, or high-level corporate officials' or managers' conscious involvement in, or willful blindness to, the violation. Individuals remain liable for their criminal misconduct. The Audit Policy is on the High Priority List of the President's Reinventing Environmental Regulations program. The final Audit Policy became effective on January 22, 1996.

When EPA published the Audit Policy as a **Federal Register** Notice in December of 1995, the Agency stated in the Notice that the Policy was intended as guidance and did not represent final agency action. At the time of publication, some in the regulated community had argued that the Policy be converted into a regulation to "ensure consistency and predictability." EPA promised in the Notice that it would revisit that request "if it determines that a rulemaking is appropriate." EPA believes there is ample evidence, much of it summarized in this **Federal Register** Notice, that the Policy has worked well as guidance and that a rulemaking is therefore unnecessary. Nothing in today's document is intended to change the status of the policy as guidance, as described in paragraph II.G(3) of the 1995 Audit Policy. 60 FR at 66712.

U.S. EPA also issued a policy on Compliance Incentives for Small Businesses in 1996 (Small Business Policy). Under the Policy, the Agency will eliminate the entire civil penalty for certain violations if a small business-defined as an entity employing 100 or fewer individuals-satisfies the policy's conditions. These conditions include a good-faith effort to comply by either receiving on-site compliance assistance or conducting an environmental audit and by disclosing violations promptly, and correcting them within six months of discovery. Violations excluded from the policy's coverage include repeat violations, those involving imminent and substantial endangerment or actual harm, and criminal conduct. n1

n1 For federal facilities, EPA has an Incidental Violations Response Policy (IVRP), which allows federal facilities to obtain penalty mitigation for violations disclosed and corrected during an Environmental Management Review pursuant to the IVRP. The IVRP can be found (within the Environmental Management Review Policy) on EPA's World Wide Web site at http://www.epa.gov/oeca/fedfac/policy/policy.html.

EPA is currently evaluating the effectiveness of the Small Business Policy. The Agency will be publishing a **Federal Register** Notice in approximately 6 weeks asking for comments on the Small Business Policy. As part of the Agency's evaluations of the two policies, EPA asks for comments in this Notice on the advisability of combining the Audit Policy with the Small Business Policy. In particular, the Agency is interested in whether small businesses would be more likely to audit and self-disclose violations (or seek on-site compliance assistance) if the two policies were merged. EPA is particularly interested in hearing the [*26747] comments of small businesses on this point. If the Agency ultimately decides not to merge the two policies, it will insert a reference to the Small Business Policy in the text of the revised Audit Policy. Comments concerning small business issues received in response to today's Notice will be considered when EPA reviews comments to the Small Business Policy Notice.

2. Audit Policy Use and General Results

Use of the Audit Policy has been widespread. As of March 1, 1999, 455 organizations had disclosed potential violations at approximately 1850 facilities. A large proportion of the facilities (at least 900) were the subject of multi-facility disclosures by 16 parent organizations. The rate of disclosure has increased every year the Policy has been in place.

The Audit Policy User's Survey indicates a very high satisfaction rate among the users of the Policy, with 88% of the respondents stating that they would use the Policy again and 84% stating that they would recommend the Policy to clients/counterparts. None stated that they would not use the Policy again or not recommend its use to others. Among the user comments are the following:

. "Companies can avoid penalties for doing the right thing. And everyone wins."

. "It enhances compliance, environmental performance and de-polarization of regulators and the regulated community."

. "Very good experience. It allowed the facility to proactively respond to address a compliance issue quickly without delays related to traditional command-and-control enforcement."

. "In general, it is a solid program."

. "Created a partnership of trust between regulator and reporting regulated entity."

. "Ability to find, report, and correct issues in a cooperative or partnering role with EPA."

Before the effective date of the final Audit Policy (and the April 3, 1995 interim Audit Policy that preceded it), EPA had differing approaches to penalty mitigation for auditing, disclosure and correction of violations, depending upon the specific enforcement policy involved. The EPA Audit Policy provides a common penalty mitigation approach towards systematic discovery, prompt disclosure and expeditious correction of environmental violations across all environmental statutes and media. The Audit Policy states that it "supersedes any inconsistent provisions in media-specific penalty or enforcement policies * * *." II.G.(1).

With respect to consistent application of the Audit Policy to civil violations, EPA established the Audit Policy Quick Response Team (QRT) in June 1995 to ensure that determinations for eligibility under the Audit Policy are consistent, expeditious and fair nationally. In January 1997, the Audit Policy QRT developed the Audit Policy Interpretive Guidance, providing useful guidance to regulated entities, the EPA Regions and Headquarters and other interested parties. The Audit Policy QRT is comprised of senior representatives from EPA Headquarters, Regions and the Department of Justice.

To address criminal violations that are self-disclosed under the Audit Policy, EPA established the Voluntary Disclosure Board (VDB) in October 1997. The VDB serves as a central body for

consideration of all voluntary disclosures potentially criminal in nature; its purpose is to ensure consistent application of the Policy nationwide in the nationally-managed criminal enforcement program. The VDB is comprised of members associated with the criminal enforcement program at EPA, and a member from the Department of Justice, Environmental Crimes Section.

EPA has made the Audit Policy and related documents, including Agency guidance interpreting the Policy and general interest newsletters, available on the World Wide Web at *www.epa.gov/oeca/polguid/polguid1.html.* EPA's guidance for implementing the Audit Policy in the context of criminal violations can be found at *http://es.epa.gov/oeca/oceft/audpol2.html.*

3. Audit Policy Evaluation and Criteria for Effectiveness

Under the Public Accountability section of the Audit Policy (Part II.H.), EPA pledged to conduct a "study of the effectiveness" of the Audit Policy by January 1999. Pursuant to this pledge, EPA initiated the Audit Policy Evaluation in spring 1998 to review the effectiveness of the Audit Policy and to recommend any appropriate revisions to the Assistant Administrator for Enforcement and Compliance Assurance.

EPA is using the following criteria to evaluate the effectiveness of the Policy:

. Environmental or Human Health Improvements Resulting from the Policy.

. Prompt Disclosure and Correction of Violations.

. Improvements in Corporate Compliance Programs.

. Awareness of New Environmental Issues. n2

n2 The Policy sets forth the following evaluation criteria: "H. Public Accountability

(1) Within 3 years of the effective date of this policy, EPA will complete a study of the effectiveness of the policy in encouraging:

(a) changes in compliance behavior within the regulated community, including improved compliance rates;

(b) prompt disclosure and correction of violations, including timely and accurate compliance with reporting requirements;

(c) corporate compliance programs that are successful in preventing violations, improving environmental performance and promoting public disclosure;

(d) consistency among state programs that provide incentives for voluntary compliance.

EPA will make the study available to the public." 60 FR at 66712.

The Audit Policy Evaluation utilizes criteria (b) and (c) but will not focus on criteria (a) and (d). An effort to measure compliance behavior and compliance rates (criterion (a)) is underway through the National Performance Measures Strategy (Measures Strategy). As performance measures, the Measures Strategy has identified an "outcome" of "self-policing efforts by using compliance incentive policies" (Set 5), and an "output" of the "number of self-policing settlements concluded" (Set 9). More information regarding the Measures Strategy may be found at the following website: *es.epa.gov/oeca/perfmeas.*

Consistency among state compliance incentive approaches (criterion (d)) is not an EPA goal per se. Rather, EPA encourages balanced, open and innovative approaches for encouraging protection of human health and the environment. Approximately eleven states have developed audit policies that are designed to encourage self-policing without undermining enforcement or

the public's right to access environmental information. Other states have enacted audit privilege and/or immunity laws. EPA believes that such laws are not as protective of human health and the environment as policies because they invite secrecy, complicate investigations and criminal prosecutions, shield evidence of wrongdoing, impede enforcement discretion, breed litigation over the scope of the privilege, and frustrate public access to information about sources of pollution. However, such laws can be narrowly crafted such that they do not conflict with minimum federal requirements.

Using an empirical, fact-based approach, EPA developed and utilized the Audit Policy Internal Survey (Internal Survey) and the Audit Policy User's Survey (User's Survey), and will rely upon other information and public comments. Under the Internal Survey, EPA collected information from approximately fifteen Regional and Headquarters offices that process enforcement cases under the Audit Policy. The results of the Internal Survey include information about environmental or health improvements, new environmental issues about which EPA became aware, numbers and types of Audit Policy cases, time-frame for resolving cases, reasons why entities did not qualify for Policy relief, and suggestions for improvements to the Policy and its implementation.

EPA, through its contractor, sent copies of the User's Survey to 252 [*26748] regulated entities that had disclosed violations under the Policy. The results of the User's Survey are based on responses from 50 respondents whose identities are not known to EPA. The results include information about user satisfaction, the extent to which the Policy encourages improvements in corporate compliance programs, motivations for using the Policy, and suggestions for improvements to the Policy and its implementation. (Copies of the User's Survey results will be available in the Audit Policy Docket, hereinafter, "Docket".)

EPA also held several informal meetings and conference calls with industry, environmental groups and State representatives to obtain input on the evaluation. On January 26, 1999, and February 3, 1999, EPA's Office of Enforcement and Compliance Assurance (OECA) and the Vice President's National Partnership for Reinventing Government (NPR) hosted two conferences entitled "Protecting Public Health and the Environment through Innovative Approaches to Compliance." The first was held in Washington D.C., followed by a similar conference in San Francisco, California. Both conferences were held to evaluate the success of EPA's enforcement and compliance assurance programs at protecting public health and the environment since OECA was reorganized five years ago. The purpose of the conferences was to discuss the actions the Agency has taken over the past five years and to solicit ideas from a variety of different stakeholders on how EPA can further improve public health and the environment through compliance efforts. Participants included environmental and community groups, trade associations, small and large business representatives, academics, and state, local and tribal representatives. These stakeholders participated in small group discussions addressing the topics of compliance assistance, compliance incentives, information and accountability, and innovative approaches to enforcement. OECA also published a **Federal Register** Notice soliciting comments on how EPA can further protect and improve public health and the environment through new compliance and enforcement approaches (64 FR 10,144, March 2, 1999). Conference summaries and a copy of the **Federal Register** Notice are available at OECA's website at *http://www.epa.gov/oeca/polguid/oeca5sum.html.*

*C. Audit Policy Evaluation*

Discussed below are the preliminary results under each of the evaluation criteria, based upon data current through the fall of 1998, followed by analyses and recommendations regarding proposed revisions to the Policy and its implementation.

1. Environmental or Human Health Improvements Resulting From the Policy

Use of the Audit Policy has resulted in overall benefits to human health and the environment. When companies voluntarily detect and correct violations in order to take advantage of the Policy, they remove harmful pollutants from our air, ground and waterways, reduce the

likelihood of chemical spills and accidental releases, improve public information regarding potential environmental hazards, and ensure safe management of hazardous chemicals and wastes. In the three years the Policy has been in effect, 73 of the violations disclosed involved the unauthorized release of pollutants, storage or disposal of wastes, failure to remediate or unpermitted activities. Examples of benefits to human health and the environment that have been achieved as a result of these disclosures include:

. A property management company removed doors that were painted with lead-based paint from a Maryland apartment complex (elevated blood lead levels in children have been linked to learning disabilities, growth impairment, permanent visual and hearing impairment and other neurological damage);

. A Minnesota company corrected violations involving the improper storage of polychlorinated biphenyls (PCBs) and subsequently properly disposed of over 195 pounds of PCBs (PCBs cause birth defects, have been linked to hormonal disruptions and are possible carcinogens);

. A manufacturing facility in New York corrected Clean Air Act violations by installing pollution control equipment on two methanol storage tanks (methanol fumes are a hazardous air pollutant, contribute to smog and can cause serious health problems); and

. A natural gas production company installed pollution control equipment at facilities located on an American Indian Reservation in Colorado that will reduce carbon monoxide emissions by 3,700 tons, or 80%, a year (high CO levels pose a health threat, particularly to young children, the elderly, and those with heart or respiratory ailments).

Hundreds of violations have been disclosed and have been or are being corrected involving deficiencies in monitoring/sampling, reporting, labeling, manifesting, recordkeeping, testing, training, and production requirements. Benefits that result from the detection and correction of these types of violations accrue in the form of risk reduction. For example, the development of spill response plans will help prevent spills and minimize risk of associated harm, improved recordkeeping will provide firefighters and other response personnel with more accurate information in the event of an emergency, and improved public reporting of Toxic Release Inventory (TRI) data may encourage companies to reduce pollution at the source. Examples of benefits that have been achieved as a result of disclosures in these areas include:

. An oil company resolved Resource Conservation and Recovery Act violations involving the shipment of benzene-contaminated waste without a transportation manifest and to an unauthorized facility;

. A Michigan manufacturer that had previously failed to file TRI reports corrected its violation and subsequently substituted an environmentally preferable water-based process for the use of 2500 pounds of chemical solvents;

. A manufacturing company provided public notice that it is storing more than 25,000 pounds each of four heavy metals at a Pennsylvania facility;

. A Montana company corrected its failure to file reports under the Toxic Substances Control Act's Inventory Update Rule, which requires manufacturers to report current data on production volume, plant site, and site-limited status for listed chemicals;

. A telecommunication company alerted state agencies and local fire departments to the presence of batteries containing sulfuric acid at hundreds of sites nationwide, and the company developed spill prevention measures required by the Clean Water Act;

. Eleven Texas companies that operate facilities in the Maquiladora (U.S. border) region in Mexico corrected violations involving transportation of hazardous waste; and

. The owners of an Oklahoma facility reported two previously unreported spills of hazardous

substances and promptly remediated the spill area.

EPA plans to maintain the ineligibility under the Policy for disclosures of violations that resulted in actual harm or may have presented an imminent and substantial endangerment to human health or the environment. n3 Such violations are ineligible because [*26749] they should be prevented by the types of auditing and management systems that the Policy is designed to encourage. As the above examples illustrate, this condition does not bar a company from qualifying for relief under the Audit Policy solely because the violation involves release of a pollutant to the environment. Similarly, EPA plans to retain the no-repeat-violation exclusion, because, among other things, the entity should prevent recurrence of noncompliance for which the entity has had clear notice and an opportunity to correct. EPA is interested in comments on possible ways to increase the environmental and public health benefits resulting from the Policy, including greater use of Supplemental Environmental Projects (SEPs).

n3 See Section II.5, *infra,* for discussion of the availability of enforcement response policies in those instances where the criteria of the Audit Policy are not met.

2. Prompt Disclosure and Correction of Violations

The results to date under the Audit Policy indicate widespread use. As of March 1, 1999, 455 regulated entities had identified and disclosed violations at approximately 1850 facilities. The rates of disclosing entities and disclosed violations have increased every year since the effective date of the Policy. In 1995, the first year of the final Policy, 46 entities disclosed violations at 49 facilities. In 1996, 72 entities disclosed violations at 105 facilities. In 1997, 90 entities disclosed violations at 568 facilities. In 1998, 96 entities disclosed violations at 927 facilities.

See Illustration on Page 26750 of Original Document. [*26751]

The Audit Policy's substantial benefits to human health and the environment can be increased significantly through detection and correction of violations on a multi-facility basis. To date, 16 parent organizations have disclosed the same type of violations at over 900 facilities. For example, under the Policy, a gas company conducted a corporate-wide audit and disclosed and subsequently corrected violations discovered at 13 of its facilities. Often multi-facility settlements are preceded by negotiations in which EPA and the company arrive at a mutual understanding of how the Audit Policy is to be applied (for example, the 10-day timely-disclosure condition is adjusted to a reasonable period to allow for completion of a corporate-wide audit). EPA plans to continue to encourage comprehensive detection, disclosure and correction of violations in multiple facilities owned by a common entity.

Many of the multi-facility disclosures that are being made occur after one company acquires another. Typically, the acquiring company discovers the potential violations through an audit of the company to be acquired and discloses them to the EPA. The Agency is interested in receiving comments on how to encourage more companies to disclose and correct violations discovered in the acquisition context.

As of April 30, 1999, EPA had granted penalty relief under the Policy to 166 entities involving approximately 936 facilities, including 131 instances in which no monetary penalty was assessed and 19 instances in which gravity-based penalties were mitigated by 75%. There were 8 instances in which the company's economic benefit was recouped, including 6 instances in which only the economic benefit was paid, with 100% mitigation of the gravity-based penalty.

Most of the disclosures under the Audit Policy involve reporting and monitoring types of violations of federally-run programs. Eighty-four percent of the violations disclosed are reporting, monitoring/sampling, labeling/manifesting, recordkeeping, testing, training and production violations. Sixteen percent of violations disclosed are unauthorized releases and violations of storage/disposal/container management, permit application, and remediation requirements. These percentages appear to reflect the high percentage of regulations for reporting, monitoring and recordkeeping. Ninety-one percent of violations disclosed were

violations of programs administered by EPA and not by the states.

To date, there have been 14 disclosures to EPA's criminal enforcement program. Of the 14 disclosures received by the Agency's criminal program, three were denied consideration under the Policy because they were submitted subsequent to a criminal investigation having been opened by EPA's Criminal Investigations Division. Seven remain in open investigation status. In four of the 11 eligible disclosures, the government (either EPA alone or in conjunction with the Department of Justice) determined either that the conduct disclosed was not criminal in nature, and referred the matter to EPA's civil enforcement arm, or closed the matter in consultation with civil enforcement. Violations disclosed involve RCRA, CAA, CWA, TSCA and CERCLA. Due to the relatively small number of cases, however, and the fact that the majority of cases are open investigations, specific violations cannot be discussed.

The User's Survey indicates that while many would have disclosed even in the absence of the Audit Policy, it was a motivator for some. Responses received include the following:

. "It was only a reporting violation; without the policy we may not have reported it."

. "The Audit Policy was a clear motivator to report."

. "We probably would have disclosed under the voluntary disclosure policies."

. "Violations would always be disclosed, but EPA Audit Policy creates an incentive for comprehensive self-auditing."

Less directly applicable, the National Conference of State Legislatures (NCSL) recently released a study concluding that there is no statistically significant relationship between the existence of a state environmental Audit Policy or law and the level of environmental disclosures over time. n4 The study also reveals that facilities are not necessarily aware of the existence in their state of an audit policy or privilege/immunity law. Between 40% and 50% of the facilities interviewed did not know whether their state had an audit policy or law.

n4 "State Environmental Audit Laws and Policies: An Evaluation," National Conference of State Legislatures (October, 1998).

3. Improvements in Corporate Compliance Programs

Seventy percent of respondents to the User's Survey reported having in place a formal environmental compliance auditing program and 52% reported having either a formal environmental management system (EMS) or a compliance management ("due diligence") system. Of these, approximately half reported that the Audit Policy encouraged specific improvements in their compliance auditing program (54%) or EMS/compliance management program (50%). Reported improvements include introducing EMSs and auditing to some companies, and motivating others to audit more pervasively throughout the organization. Responses include the following:

. "Ensured inclusion of internal auditing system into EMS."

. "Broadened scope of regulatory efforts at compliance-Increased awareness of various regulatory responsibilities."

. "It confirmed the desirability of rigorous effectuation of an EMS."

. "Take more diligence on audits and report violations in a timely manner"

. "Improved audit follow-up of any findings."

. "Internal audit system being developed on corporate level for all facilities in division."

. "Introducing EMS and audits to company."

. "Gave us discipline and focus for auditing."

. "Encouraged more complete documentation of the EMS."

When asked what compliance or environmental improvements were induced at least in part by the incentives offered by the Policy, forty-four percent of respondents offered examples, including increased awareness of compliance issues, enhanced training and review of staff performance, and improved reporting. Responses include the following:

. "We've embarked on a broad program to update and improve procedures to more plainly address compliance."

. "Supports open reporting internally within entity."

. "To be more aware of potential problems."

. "Stored waste disposed of properly."

. "Enhancement of procedures and training."

. "Greater awareness on the part of management that compliance activities must become part of business processes."

. "Internal audit system being developed on corporate level for all facilities in division."

. "Motivator in general to do more frequent audits."

. "The facility established a better system to monitor reporting requirements." [*26752]

. "Improved reporting."

. "Enhanced process sampling-operator personnel protective equipment, operator training."

. "EPA demonstrated the benefit of maintaining compliance and auditing programs through their willingness to reduce penalty amounts on self-reported violations."

. "Completed TRI reports that were not done previously so reporting was brought up to date."

An additional 22% of respondents indicated that it was too early to tell whether the Policy had induced compliance or environmental benefits, 14% didn't know, and 4% indicated no improvements.

The Internal Survey revealed that entities adopted the following known efforts to prevent recurrence of the violation: 24% of the entities implemented employee training covering compliance requirements, 43% of the entities implemented a management system addressing compliance requirements, and 33% of the entities took other efforts such as developing or formalizing procedures or increasing oversight or review.

As part of several enforcement initiatives involving the Audit Policy, EPA is encouraging environmental auditing by distributing copies of auditing protocols. For example, as part of an initiative to encourage auditing and self-policing, the EPA is developing and plans to distribute 13 audit protocols that will include summaries of the applicable statutes and regulatory requirements, and checklists to help direct environmental auditors through the auditing process.

The Audit Policy has spurred improvements in environmental auditing and compliance management systems. EPA's experience suggests that companies are much more likely to take advantage of incentives to disclose and correct violations when such incentives are offered in the framework of integrated enforcement and compliance assistance strategies, which can include such elements as outreach, identification of compliance assistance tools such as audit protocols, and increased compliance monitoring and enforcement activities. Participation may be further enhanced when the terms for disclosure and correction are standardized, e.g., through pre-established deadlines and penalty amounts. This is consistent with a 1995 Price Waterhouse survey, "The Voluntary Environmental Audit Survey of U.S. Business," which found that inspections and enforcement play a critical role in motivating corporate audit programs. By providing "early warning," EPA can provide industries with an opportunity to come into compliance without facing the risk or expense of an enforcement action. EPA proposes no specific revisions to the Audit Policy in this regard. The Agency plans to focus more carefully on reviewing efforts to prevent recurrence and plans to continue the development and dissemination of auditing protocols and other tools to assist companies in systematically discovering and correcting violations.

4. Awareness of New Environmental Issues

The Internal Survey revealed that in 27 instances EPA became aware of new environmental issues related to compliance as a result of disclosures made under the Audit Policy. In addition to the discovery of specific issues, use of the Policy has heightened awareness by both EPA and the regulated community of otherwise undetected environmental problems prevalent among specific industry sectors. Some disclosures to EPA have assisted the agency in identifying newly emerging environmental problem areas.

For example, a national telecommunications company discovered and disclosed over 600 violations of the Clean Water Act (CWA) and the Emergency Planning and Community Right to Know Act (EPCRA) at over 300 of its facilities. In undertaking the audit that led to this disclosure, the company identified the existence of a previously undetected environmental risk. Through its disclosure under the Audit Policy, the company alerted the EPA to this risk, prompting the Agency in turn to contact other members of the telecommunications industry to call attention to potential problems at their sites. EPA might have remained unaware of the risk were it not for the first company's disclosure and correction of the problem.

Another example of heightened awareness of sector-related environmental issues is disclosures made to EPA by six member companies of the Oilseed Processors Association. Through use of the Audit Policy, EPA became aware of significant violations among food processors who produce products that do not qualify as foods or food additives for purposes of the Federal Food, Drug and Cosmetic Act and, therefore, are subject to regulation as chemical substances under the Toxic Substances Control Act (TSCA). TSCA's Inventory Update Rule requires certain parties to report to EPA chemical information for use in EPA's database of national organic chemical production volume information. Disclosures of violations in nine states brought to EPA's attention prevalent violations of the reporting requirement among this industry sector.

Finally, the 11 eligible disclosures received by EPA's criminal enforcement program so far and accepted for consideration under the Policy involve violations that may well not have been discovered absent the voluntary disclosure.

## II. Proposed Revisions and Solicitation for Public Comment

*A. Discussion of Specific Proposed Revisions to Policy Text*

In the following set of proposed revisions to the Audit Policy, proposed additional text is indicated in *italics,* and proposed deleted text is indicated in [brackets].

1. Broaden Period for "Prompt Disclosure" From 10 days to 21 Calendar Days, and Clarify the Time of Discovery

Proposed Revision: II.D.3., Prompt Disclosure, "The regulated entity fully discloses a specific violation within *21* [10] *calendar* days, [(]or such shorter period provided by law[)], after it has discovered that the violation has occurred, or may have occurred, in writing to EPA;"

Proposed Revision: Explanatory Text, I.E.2 (third column, third full paragraph), delete: "[Where reporting within ten days is not practical because the violation is complex and compliance cannot be determined within that period, the Agency may accept later disclosures if the circumstances do not present a serious threat and the regulated entity meets its burden of showing that the additional time was needed to determine compliance status.]" Replace it with: *"EPA may extend the disclosure period to allow reasonable time for completion and review of multi-facility audits where: (a) EPA and the entity agree on the timing and scope of the audit prior to its commencement; and (b) the facilities to be audited are identified in advance."*

Proposed Revision: Explanatory Text, I.E.2 (66708-66709), "This condition recognizes that it is critical for EPA to get timely reporting of violations in order that it might have clear notice of the violations and the opportunity to respond if necessary, as well as an accurate picture of a given facility's compliance record. Prompt disclosure is also evidence of the regulated entity's good faith in wanting to achieve or [*26753] return to compliance as soon as possible.

"In the final Policy, the Agency has added the words, "or may have occurred," to the sentence, "The regulated entity fully discloses [that] *within 21 days * * **" *after it has discovered that the violation has occurred,* [a specific violation has occurred,] or may have occurred * * *." This change, which was made in response to comments received, clarifies that where an entity has some doubt about the existence of a violation, the recommended course is for it to disclose and allow the regulatory authorities to make a definitive determination. *The time at which a violation may have occurred begins when any officer, director, employee or agent of the facility has an objectively reasonable basis to conclude that a violation may have occurred.*

Rationale: While EPA proposes to broaden the disclosure period from 10 to 21 days, EPA also proposes to clarify when a violation "may have occurred," or when the disclosure period begins to run. Based on results of the User's Survey and other sources, the 10-day disclosure period may be a significant impediment to increased use of the Audit Policy. Expanding the disclosure period is the most frequent suggestion by users, and disclosure beyond the 10-day time-frame is a common reason for ineligibility under the Policy. For these reasons, EPA proposes to broaden the prompt disclosure period from 10 days to 21 days.

The broadening of the disclosure period is in response to EPA's analysis and experience as well as to input from representatives from regulated entities that 10 days is not sufficient time to analyze and decide whether to disclose potential violations, especially for larger corporations with several layers of management. Results of the Internal Survey indicate that approximately 23 of 53 late disclosers reported by survey respondents had disclosed within the 11-21 day time-frame after they "discovered" the violation had occurred or may have occurred. The choice of 21 days, a multiple of seven, will make it very likely that the disclosure deadline falls on a business day if "discovery" was made on a business day. Finally, the designation of "calendar" day as opposed to "business" day will clarify EPA's expectations. In practice EPA has used calendar days in applying this condition. Note that entities would still be required to disclose within any legally mandated time frame, e.g., the immediate reporting requirement for unpermitted releases in 42 U.S.C. 9603.

Under the prompt disclosure provision, for purposes of pinpointing the date of discovery and calculating the disclosure period, the time at which a violation may have occurred begins when any officer, director or employee of the facility has an objectively reasonable basis to conclude that a violation has occurred. The existence of this objectively reasonable basis will begin the running of the 21-day clock for disclosure. Where there are differing legal interpretations that raise the issue of whether a violation has occurred as a matter of law, an entity should disclose the violation as soon as possible but in no case more than 21 days after the awareness of facts that constitute a possible violation. EPA will make a definitive determination concerning whether

such facts actually present a violation of law.

For the sake of clarity, the explanatory text language implying that disclosures may be made after the disclosure period has run is proposed for deletion.

2. State That the Impending Inspection/Investigation or Information Request Must "Involve The Same Facility" in Order to Fail Under the "Independent Discovery" Condition

Proposed Revision: II.D.4, Discovery and Disclosure Independent of Government or Third Party Plaintiff, "The violation must also be identified and disclosed by the regulated entity prior to:

(a) the commencement of a federal, state or local agency inspection or investigation, or the issuance by such agency of an information request [to the regulated entity] *involving the same facility of that entity; or the commencement of a broad investigation to address multi-facility compliance problems at the regulated entity. Where, as a result of violations uncovered during an inspection, investigation, or information request at a facility, EPA is planning to inspect, investigate, or send an information request to other facilities of the same regulated entity, such facilities will not qualify for audit policy credit because any violations disclosed thereafter would not be "independent" of government action."*

Add to the Explanatory Text (at end of current text in section E(3)):

*"Where the regulated entity owns and/or operates more than one facility, the fact that an investigation (e.g., information request or inspection) has begun with respect to one facility does not per se disqualify another facility owned or operated by the entity from receiving audit policy credit. The audit policy does encourage multi-facility auditing and disclosure of violations. However, the audit policy is designed to encourage entities to disclose violations before an entity is the subject of any investigation, not after EPA uncovers violations at one facility. EPA cautions that once an inspection or response to an information request has revealed violations at one facility, the regulated entity is more likely to be the subject of increased scrutiny. Where EPA plans an investigation of other facilities owned or operated by an entity, those other facilities will not be entitled to audit policy credit.*

Rationale: The primary purpose of this condition, as stated in the current preamble to the Policy, is to ensure that regulated entities seeking relief under the Policy have taken the initiative to find violations and promptly report them, rather than reacting to knowledge of a pending enforcement action, investigation, or third-party complaint. This proposed change harmonizes the language of the Policy with EPA practice. Thus, Policy relief for a facility is not necessarily precluded by an inspection, investigation or information request at another facility owned by the same parent organization.

3. State That "No Recommendation for Criminal Prosecution" Is Available for Entities That Meet All of the Conditions Except for "Systematic Discovery"

Proposed Revision: II.C.3, No Criminal Recommendations, "(a) EPA will not recommend to the Department of Justice or any other prosecuting authority that criminal charges be brought against a regulated entity where EPA determines that all of the conditions *of Section D(2) through D(9) below* [in Section D] are satisfied, so long as the violation does not demonstrate or involve: * * *."

Rationale: EPA proposes that "no recommendation for criminal prosecution" is available for entities that meet all of the conditions except for "systematic discovery." In the application of this Policy to criminal matters, there is no ability to grant a reduction in gravity benefit to a disclosing entity. Even if a violation is not discovered systematically, its circumstances may not present the kind of culpability that rises to the level of criminal conduct. Because EPA wants to encourage disclosures of potential criminal violations, Policy benefits will be extended to a disclosing entity in the criminal context regardless of how discovery is made. [*26754]

4. Clarify the Meaning of "Cooperation" Required for Disclosures Made Under the Policy

Proposed Revision: II.D.9. Cooperation, add a new sentence at the end of the paragraph: *"EPA does not intend to request an audit report to determine the applicability of this Policy for purposes of civil penalty mitigation unless EPA determines that information contained in an audit report is necessary to such determination and is not readily available otherwise."*

Proposed Revision: Explanatory Text, I.E.8., Cooperation, add to end of paragraph, *"Cooperation in a criminal investigation shall include, at a minimum, access by EPA* to all information relevant to the violation(s) disclosed, including *that portion of the environmental audit or documentation from the compliance management system that revealed the violation(s), access to the individuals who conducted the audit or review, access to all employees of the disclosing entity, and access to all requested documents. Such cooperation may be effected directly by the company or through counsel. Full cooperation does not necessarily require that the entity waive all legal privileges available to it, but does require that the disclosing entity provide EPA with all information relevant to the violation(s) disclosed, whether or not such information might otherwise be protected by legal privilege."*

Rationale: Part II.C.4. of the Policy states EPA's general policy and practice regarding requests for and use of environmental audits, but does not indicate under what circumstances EPA will request audit reports from entities that have disclosed violations under the Audit Policy, i.e., what is required under the Policy's "cooperation" condition. This language clarifies the EPA's approach to "cooperation" for disclosures of civil and criminal violations.

These proposed changes are consistent with EPA practice. EPA has not requested submission of audit reports to satisfy the cooperation condition unless it is necessary to apply the Policy and the information contained in the audit report is not available otherwise.

The second set of proposed revisions provides additional guidance with respect to requests for audit reports from entities that have disclosed criminal violations.

5. Clarify That Penalty Relief Is Available Under Other Enforcement Policies for "Good Faith" Disclosures of Violations Even for Those That Do Not Meet the Audit Policy criteria

Proposed Revision: G. Applicability, add to end of paragraph (2), *"Where an entity has failed to meet any of the conditions of Section II.D.2 through 9 and therefore is not eligible for penalty relief under this Policy, an entity may still be eligible for penalty relief under other EPA media-specific enforcement policies in recognition of good faith efforts, even where, for example, the violation may have presented an imminent and substantial endangerment or resulted in serious actual harm."*

Rationale: This additional language responds to industry contentions that regulated entities may not be aware that penalty relief for self-disclosures is available under other enforcement policies for entities that did not qualify for relief under the Audit Policy, even if they failed under the exclusion for "imminent and substantial endangerment/serious actual harm." A review of the major media-specific enforcement policies indicates that "good faith" efforts may result in up to 50% gravity mitigation with respect to violations that may have failed under the "imminent and substantial endangerment/serious actual harm" exclusion of the Audit Policy, depending upon the enforcement policy involved and the precise facts.

6. Clarify EPA's Intent Concerning the Imminent and Substantial Endangerment Exclusion

In response to concerns that the imminent and substantial endangerment exclusion from the Policy is unclear and/or too harsh, today EPA is clarifying its intent regarding this standard. This condition does not bar a company from qualifying for relief under the Audit Policy solely because the violation involves release of a pollutant to the environment; rather, it is intended to exclude those violations that present a serious risk of harm since good audit programs should prevent such occurrences. Releases of emissions do not necessarily result in an imminent and

substantial endangerment. n5 To date, EPA has not invoked the imminent and substantial endangerment exclusion to deny Audit Policy credit for any disclosure.

n5 See *Guidance on the Use of Section 7003 of RCRA* (October 1997).

7. Change Nomenclature of "Due Diligence" to "Compliance Management System"

Proposed revision: D.1.Systematic Discovery, "The violation was discovered through:

(a) an environmental audit; or

(b) *a compliance management system* [an objective documented, systematic procedure or practice] reflecting the regulated entity's due diligence in preventing, detecting, and correcting violations. The regulated entity must provide accurate and complete documentation to the Agency as to how *its compliance management system meets* [it exercises due diligence to prevent, detect and correct violations according to] the criteria in Section B *and how the regulated entity discovered the violation through its compliance management system.* EPA may require as a condition of penalty mitigation that a description of the regulated entity's *compliance management system* [due diligence efforts] be made publicly available.

Proposed revision: II.B., Definitions * * * *"Compliance Management System"* ["Due Diligence"] encompasses the regulated entity's *documented* systematic efforts, appropriate to the size and nature of its business, to prevent, detect and correction violations through all of the following: * * *."

Proposed revision: D.6. Prevent Recurrence, "The regulated entity agrees in writing to take steps to prevent a recurrence of the violation, which may include improvements to its environmental auditing *program or compliance management system* [due diligence efforts];"

Rationale: Under this proposed revision, "compliance management system" would replace the term "due diligence" without changing the listed criteria for a systematic compliance management program. The term "compliance management system" is much more commonly used by industry and EPA to refer to a systematic management plan or efforts to attain compliance than the term, "due diligence efforts." The term "due diligence" arose solely from the 1991 Sentencing Guidelines as part of the definition of an "effective program to prevent and detect violations of law," which is a mitigating factor in determining the criminal fine for convicted organizations. This proposed revision will avoid confusing "due diligence" under this Policy with "due diligence" inquiries in the mergers and acquisitions context. The proposed revision also states that, like the "environmental audit" method of [*26755] systematic discovery, the "compliance management system" must be documented. The explanatory text will state that the compliance management system method of systematic discovery is intended to cover violations discovered through the day-to-day operation of the system, such as detection of violations by an employee trained pursuant to the compliance management system, as well as detection through environmental audits that are part of the compliance management system.

8. Describe the EPA Processes for Handling Civil and Criminal Disclosures

Proposed revisions: add new Section I at the end of the explanatory text:

*"I. Implementation of Policy*

*"Disclosures of civil environmental violations under the Audit Policy should be made to the EPA Regions or, where the violations to be disclosed involve more than one EPA Region, to an appropriate Headquarters office. The Regional or Headquarters offices decide in the first instance whether application of the Audit Policy in a specific case is appropriate. As in other non-disclosure cases, the Regional and Headquarters offices coordinate with the criminal program offices and the Department of Justice where there may be evidence of criminal*

*violations. Conversely, disclosures made to the criminal enforcement program that reveal violations that may be civil in nature will be coordinated with the appropriate Regional or Headquarters civil enforcement office. The Audit Policy Quick Response Team (QRT), established in June 1995, addresses issues of national significance and ensures consistent and fair application of the Policy across EPA Regions and programs. The Audit Policy QRT is comprised of senior representatives from EPA Headquarters, Regions and the Department of Justice.*

*"Requests for relief under the Audit Policy for cases giving rise to potential criminal violations will be considered by the Voluntary Disclosure Board (VDB or Board) in the Office of Criminal Enforcement, Forensics and Training (OCEFT), located at EPA Headquarters. The Board will receive, monitor and consider all requests for consideration under the Policy, and make recommendations to the Director of OCEFT who will serve as the Deciding Official in all cases where disclosure indicates potential criminal violations.*

*"Disclosure and request for relief under the Policy in potential criminal cases should be made to the Board directly. Disclosures identifying potential criminal violations made through the Special Agent-in-Charge (SAC) or EPA regional enforcement personnel will be forwarded to the Board for initial evaluation and monitoring purposes.*

*"Following a disclosure of potential criminal violation(s), a criminal investigation will be initiated. During the course of the investigation, the Board will routinely monitor the progress of the investigation as necessary to ensure that sufficient facts have been established to support (or oppose) a recommendation that relief under the Policy be granted. At the conclusion of the criminal investigation, the Board will make a recommendation to the Deciding Official.*

*"Upon receiving the Board's recommendation, the Deciding Official will make his final recommendation to the appropriate United States Attorney's Office and/or the Department of Justice. The recommendation of the Deciding Official, however, is only that-a recommendation. A United States Attorney's Office and/or the Department of Justice retain full authority to exercise prosecutorial discretion.*

*"The Voluntary Disclosure Board was established in October 1997 to serve as a central body for consideration of all voluntary disclosures potentially criminal in nature. The VDB is comprised of members associated with the criminal enforcement program at EPA, including a member from the Department of Justice, Environmental Crimes Section. The Board operates to ensure consistent application of the Policy nationwide in this nationally managed criminal enforcement program."*

9. Clarify That EPA Will Release Case Information Upon Case Settlement Unless a Claim of Confidential Business Information Is Made, Another Freedom of Information Act Exemption Applies, or Any Other Law Would Preclude Such Release

Proposed Revision: Explanatory Text, I.E.2., Voluntary Discovery and Prompt Disclosure, 66709, column 1: "[In general, the Freedom of Information Act *(FOIA)* will govern the Agency's release of disclosures made pursuant to this policy.] *Upon formal settlement of a case involving disclosure under this Policy,* EPA will [, independently of FOIA,] make publicly available any *self-disclosures and related documents, unless the disclosing entity claims them as Confidential Business Information (and that claim is validated by U.S. EPA), unless another exemption under the Freedom of Information Act is asserted and/or applies, or the Privacy Act or any other law would preclude such release. Presumptively releasable documents include compliance* agreements reached under the Policy (see Section H of the Policy)[,] *and* [as well *as*, including] descriptions of *compliance management systems* [due diligence programs] submitted under Section D.1 of the Policy. Any material claimed to be Confidential Business Information will be treated in accordance with EPA regulation at 40 CFR Part 2."

Rationale: This change is intended to harmonize the explanatory text with EPA practice regarding the public availability of Audit Policy case information following the formal conclusion of the case.

10. Clarify That Violations Discovered Pursuant to an Environmental Audit or Use of a CMS Performed as a Requirement of Participation in an Agency Partnership Program Can Be Considered To Have Been Discovered Voluntarily

Proposed Revision: Add a new subsection (5) to the "Applicability" Section of the Audit Policy (II.G), as follows:

*(5) For purposes of this Policy, violations discovered pursuant to an environmental audit or CMS can be considered to be voluntary even if it is conducted in conjunction with a "partnership" program that requires an environmental audit or CMS. EPA will consider application of the Audit Policy to such partnership program projects on a project-by-project basis.*

Rationale: In partnership programs, EPA has found the Audit Policy to be useful as applied to companies sponsoring regulatory flexibility pilot projects (e.g., Project XL). This change will ensure that facilities or regulated entities participating in one of the "partnership" programs that EPA is conducting are not foreclosed from receiving penalty mitigation for violations discovered during an environmental compliance audit or use of a CMS performed as a condition of participation in such program.

11. Note the Availability of Interpretative Guidance on Many Issues Concerning the Availability and the Application of the Policy

Proposed Revision: II.G, add a new subsection to the "Applicability" section of the Policy:

*"(6) EPA has issued interpretative guidance addressing several applicability issues pertaining to the Audit Policy. Those considering whether to take advantage of the Policy should review that guidance to see if it* [*26756] addresses any relevant questions. The guidance can be found on the Agency's World Wide Web page at www.epa.gov/oeca/apolguid.html."

12. Clarify That if a Facility Discloses to EPA a Violation of a Program That a State is Approved or Authorized to Administer and Enforce, EPA Will Consult With the Applicable State in Responding to the Disclosure

Proposed Revision: I.G, add a new sentence at the end of the current text in the "Effect on States" section of the explanatory text:

*"Facilities wishing to disclose violations under the Audit Policy should disclose to the appropriate EPA Regional or Headquarters contact. When a facility discloses to EPA a violation of a state-authorized or -approved program, the Agency will inform the relevant state agency and consult with it as to an appropriate response."*

*B. Discussion of Specific Proposed Revisions to Policy Implementation*

The most frequently suggested change from users regarding Policy implementation is expediting the EPA time to acknowledge or respond to the disclosures and/or time to settle the case. EPA internal data also point toward needed improvements in this area as EPA took more than 15 days to acknowledge the disclosure in at least 35% of the cases and more than 90 days to settle the case in at least 66% of the cases. In many cases, EPA has experienced long delays in obtaining requested information from entities. In many other cases, however, EPA should have been able to process disclosures on a more expeditious basis. EPA intends to encourage the use of disclosure checklists that would have the effect of increasing the efficiency of collecting information needed to apply the Audit Policy, and the Agency is exploring other steps to speed the processing of disclosures.

The data reveal that entities disclosed violations at approximately 1850 facilities and that at least 900 of these facilities involved multiple disclosures by the same parent organization. The Agency proposes to encourage multi-facility disclosures in particular because such disclosures

effectively leverage resources of the Agency, allow regulated entities to review their operations holistically, and benefit the environment.

For the same reasons, sector-based enforcement initiatives involving the Audit Policy also figure prominently in the future of EPA's enforcement and compliance program. These types of initiatives are also supported by direct evidence that an inspection presence provides a direct incentive for auditing for and correction of environmental violations. n6

n6 Results of the following surveys and studies support this proposition:

. 1995 Price Waterhouse survey, "The Voluntary Environmental Audit Survey of U.S. Business," question 25, (As a reason for auditing, 96% indicated "Problems can be identified internally and corrected before they are discovered by an agency inspection.");

. 1998 National Conference of State Legislatures, finding 5 (90% of respondents rank as being very important reasons for auditing, "Measuring compliance with environmental requirements, and identifying problems internally and correcting them before they are discovery during an inspection by a regulatory agency.")

. 1998 Audit Policy User's Survey, question 17 (As second most frequently cited reason for disclosing violations under the Audit Policy, "To take proactive measures to find and address compliance problems before EPA discovered them.")

The Audit Policy has successfully provided a common approach toward encouraging self-policing that is consistently applied across all environmental media and EPA Regions and offices. EPA does not recommend any revisions to Policy implementation in this regard. To the extent that data indicate that awareness of the Audit Policy is low, EPA will continue to emphasize Audit Policy awareness-building activities.

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